THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.8106 of 2007

Dated:19-09-2007

Between:

Varaganti Satyanarayana .. Petitioner.

And

Joint Collector (F.C.S.)
Medak District at Sangareddy
and another. .. Respondents

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WRIT PETITION No.8106 of 2007

ORDER:

Heard Sri D.Pramada, the learned counsel representing the petitioner, and the learned Government Pleader for Civil Supplies.

2. Varaganti Satyanarayana, the writ petitioner, filed the present writ petition for a writ of mandamus declaring the action of the respondents in not considering his representation for transfer of authorization of his father as illegal and arbitrary, and consequently, direct the respondents to consider his case for transfer of authorization of his father onto his name and pass such other suitable order.

3. In the affidavit filed in support of the writ petition, the petitioner has stated that his late father V.Yadagiri was issued authorization on 22.8.1988 to run a fair price shop in Venkatraopet village, Meerdoddi Mandal of Medak District and it was renewed from time to time and his validity was subsisting till 2006. On 8.5.2006, his father applied for renewal of his authorization by paying necessary challan. As the renewal application was not filed one month before the expiry of his authorization, as per condition No.5 of the authorization letter, his earlier deposit was forfeited and he was directed to file a fresh proposal by paying Rs.3000/- without any further delay and RDO directed the MRO not to issue ROs until they remit deposit for fresh authorization. As per the proceedings No.B/1068/06, dated 22.9.2006

of RDO, his father has remitted Rs.3000/- for grant of fresh authorization on 27.10.2006 and submitted the letter to the District Manager, APSC Ltd., Sangareddy. While the matter was pending consideration before RDO, his father passed away on 03.11.2006. The petitioner further contended that the concerned office people told him that his late father was given fresh authorization, which is valid upto 31.3.2008.

It is also stated in para 3 of the affidavit that though the respondents have made some alternate arrangements for distributing essential commodities to the card holders through shop No.2 of Venkatraopet village, this is a temporary incharge arrangement made by the authorities keeping in view the inconvenience likely to be caused to the cardholders. The petitioner herein further states that he is managing the shop with an understanding with the dealer of shop No.2 of Venkatraopet village and he has no grievance for granting license in his name as the legal heir of his father, and that with the income he is earning by managing the said shop, he is supporting his family, which is the need of the hour.

It is further stated that the petitioner himself, his elder brother and his mother are the legal heirs of his father and he is an unemployee with intermediate qualification and taking care of his mother, as such, he made an application seeking transfer of authorization in his name. He also made a representation before the Joint Collector for transfer of authorization in terms of circulars issued by the authorities dated 29.6.2005, which is pending consideration before the respondents, but no orders are passed till date.

It is also further averred by the petitioner that after the death of his

father, their family is unable to maintain themselves without any income from any corner, and that because of the sympathy shown by the dealer of shop No.2, he is working under him and continued to distribute the commodities through which they are eking out their livelihood, therefore, he requests the respondents to transfer the authorization granted in favour of his late father in respect of shop No.1 onto his name in terms of circular dated 29.6.2005 issued by the Office of Commissioner, Civil Supplies.

4. A counter affidavit is filed by the respondents, wherein in para 2 of it, it is stated that Sri V.Yadagiri, s/o. Narayana, was the fair price shop dealer of shop No.1 of Venkatraopet (v) of Thoguta (M). The authorization of the fair price shop in the name of the father of the petitioner was valid upto 31.3.2006, thereafter, he did not get it renewed in time after 31.3.2006, and hence, the orders were issued forfeiting the earlier security deposit and the father of the petitioner was directed to obtain fresh authorization. In the meanwhile, the father of the petitioner expired on 03.11.2006, and hence, the authorization was not issued.

In para 3 of the counter affidavit, it is also stated that due to cancellation of authorization, the Tahsildar was directed to make alternate arrangements in view of the inconvenience likely to be caused to the cardholders. The Tahsildar, in turn, has made alternate arrangements by the existing dealer of fair price shop No.2. Entrustment of the petitioner herein for distribution of essential commodities either by the incharge dealer or the Tahsildar at any time was not made.

It is further stated in para 4 of the counter affidavit that the

application submitted by the petitioner for transfer of authorization in his name as legal heir of his father has not been considered, since such a provision is not available in the Control Order, 2001. The application submitted by the petitioner to the Joint Collector, Medak has been sent to the office of the 2nd respondent for taking necessary action as per rules. Since, there is no provision for transfer of the authorization of the deceased fair price shop dealer in favour of the legal heirs, as such, the request of the petitioner was not considered. There are no instructions as contended by the petitioner for issuing of transfer of authorization.

It is also further stated in para 5 of the counter affidavit that there is no provision under APSPDS (Control) Order, 2001 in CCS reference No.N/5/10045/05 Dt.29-6-2005 for transfer of authorization of the deceased fair price shop dealer in favour of the legal heirs. As such, the petitioner is not eligible for issuance of the authorization in his favour and he has no right to claim for issuance of authorization and there is no violation of condition.

5. There is a specific stand taken in the counter affidavit filed by the respondents. Strong reliance was placed on the decision of this Court in writ petition No.27067 of 2005, dated 27th September, 2006, wherein the learned Judge observed that in the facts and circumstances of the case and also in view of the assertion made by the petitioner that she is entitled for being considered for transfer of authorization of the fair price shop dealership in her name, as per the Circular dated 29-6-2005 of the Commissioner of Civil Supplies, Andhra Pradesh, Hyderabad, the respondents are directed to consider the case of the petitioner as per the said Circular dated 29-6-2005 and

pass appropriate orders as per law, within a period of six weeks from the date of receipt of a copy of the said order. Till such time, no appointment shall be made against fair price shop No.3 of Gajwel Town. With the above directions, the writ petition is disposed of. No order as to costs.

6. Submissions in elaboration had been made. The counsel for the petitioner asserted that the writ petition shall be disposed of on the same lines and the learned Government Pleader for Civil Supplies on the other hand contended that this cannot be treated as a binding precedent in the facts and circumstances of the case. The learned Judge had referred to the Circular and directed that the case of the petitioner to be considered in the light of the circular, dated 29.06.2005, and pass appropriate orders as per law within a period of six weeks from the date of receipt of the copy of the said order.

7. In the light of the directions given in W.P.No.27067 of 2005, dated 27.09.2006, the petitioner is permitted to make a representation in detail to the 2nd respondent and if need to the 1st respondent as well, within a period of two weeks from the date of receipt of a copy of this order and the respondents shall consider the case of the petitioner in the light of the observations referred to supra within a period of four weeks thereafter.

8. The writ petition is disposed of with the above directions. No order as to costs.

(P.S.NARAYANA,J)

Dt.19.09.2007
v v